

Appl. No. 10/725,251
Docket No. P146
Amdt. dated October 19, 2009
Reply to Office Action mailed on March 25, 2009
Customer No. 27752

REMARKS

Claim Status

Claims 1 – 20 are pending in the present application. No additional claims fee is believed to be due. Claims 9 – 20 have been withdrawn as a result of an earlier restriction requirement. Claim 1 has been amended. Claim 4 has been canceled. It is believed these changes do not involve any introduction of new matter. Consequently, entry of these changes is believed to be in order and is respectfully requested.

Rejection Under 35 U.S.C. § 102 Over Speights

Claims 1 – 3 have been rejected under 35 U.S.C. § 102 as being anticipated by Speights et al. (US Patent No. 4,987,124)(“Speights”). Applicants respectfully traverse this rejection. However, in order to advance prosecution, Applicants have amended independent claim 1. Claim 1 now recites, inter alia, wherein the animal composition is a dog or cat food. Since Speights fails to disclose at least a dog or cat food, Speights cannot be said to anticipate the claims. Speights also fails to disclose a dog or cat food comprising a protein source at from 20% to 35%, the protein source selected from the group consisting of beef, pork, lamb, poultry, fish, vegetable, and mixtures thereof. Because Speights fails to disclose each and every element of the claims, Applicants respectfully request reconsideration and withdrawal of the rejection.

Rejection Under 35 U.S.C. § 103(a) Over Reinhart

Claims 1-4 and 6-8 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over Reinhart et al (US Patent No. 5,776,524)(“Reinhart”). Applicants respectfully traverse this rejection. However, in order to advance prosecution, Applicants have amended independent claim 1. As now amended, Reinhart fails to teach or suggest each and every element of the claims. Claim 1 now recites a companion animal composition comprising from about 0.01% to 0.19% of short chain oligofructose, by weight of the composition, wherein the short chain oligofructose comprises 1-kestose, nystose, and 1F-beta-fructofuranosylnystose, and further comprising a fiber source additional to the short chain oligofructose; wherein the animal composition is a dog or cat

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food comprising a protein source at from 20% to 35%, the protein source selected from the group consisting of beef, pork, lamb, poultry, fish, vegetable, and mixtures thereof. Reinhart discloses a composition comprising from 0.2 to 1.5 weight percent fructooligosaccharide, on a dry matter basis. Col. 2, lines 45 – 49. The range as disclosed by Reinhart is greater than the range claimed in the current application. Additionally, Reinhart fails to disclose a protein source selected from the group consisting of beef, pork, lamb, poultry, fish, vegetable, and mixtures thereof. In light of Reinhart's failure to disclose these two elements, Applicants respectfully request reconsideration and withdrawal of the rejection.

Rejection Under 35 U.S.C. § 103(a) Over Speights in view of Reinhart

Claims 1-4 and 6-8 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over Speights in view of Reinhart. Applicants respectfully traverse this rejection. However, in order to advance prosecution, Applicants have amended independent claim 1. For the same reasons as above with respect to Speights and Reinhart, and without addressing the merits of the combination of Speights with Reinhart, Applicants respectfully request reconsideration and withdrawal of the rejection.

CONCLUSION

This response represents an earnest effort to place the present application in proper form and to distinguish the invention as claimed from the applied references. In view of the foregoing, entry of the amendments presented herein, reconsideration of this application, and allowance of the pending claims are respectfully requested.

Respectfully submitted,

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